

30.07.2024

Sl. No. 07

Ct. No. 23

Srimanta

WPA/14481/2024

Harikishore Roy & Ors.

-Vs.-

The State of West Bengal & Ors.

Mr. Ramkrishna Bhattacharyya,
Mr. Kaushik Choudhury,
Mr. Gourhari Das

...for the petitioners.

Ms. Tuli Sinha

...for the State.

Leave is granted to the petitioners to correct the address of the respondent nos. 8 and 9.

The petitioners are 17 in numbers who were all engaged in West Bengal National Volunteer Force (in short, WBNVF). All the petitioners on attaining the age of 60 had demitted their office prior to 16th September, 2020. The petitioners as per the prevailing circulars at the time of superannuation were entitled to a lump sum amount of Rs.50,000/- as *ex gratia*. The petitioners were all provided with the same. However, subsequent to the retirement of the petitioners the State Government has increased the one time *ex gratia* amount from Rs. 50,000/- to Rs. 3,00,000/- being the amount presently receivable by a volunteer in WBNVF on superannuation. The petitioners had ventilated their grievances for

receiving the increased amount in an earlier round of litigation. The earlier writ petition being WPA/16681/2021 was disposed of by an order dated 8th February, 2022 directing the State Commandant, WBNVF to dispose of the representations made by the petitioners for receiving the enhanced amount of *ex gratia*. The representations made by the petitioners have been disposed of by a reasoned order passed by the Deputy Inspector General of Police and State Commandant, WBNVF Directorate, Kalyani, Nadia. The petitioners have, *inter alia*, challenged this reasoned order. The petitioners are also assailing the circular by which the *ex gratia* amount was increased to Rs. 3,00,000/- by contending that the same ought to have been made operative retrospectively.

After hearing the parties and considering the materials-on-record I do not find any cogent ground to interfere with the reasoned order dated 13th April, 2022. The enhanced amount was not granted to the petitioners as the circular by which the enhancement took place was made operative prospectively and not retrospectively. It is well settled principle in law that unless a Statute or a circular is specifically made operative retrospectively it is deemed to be prospective. In fact, the General Clauses Act, 1897 also speaks for the same. In the instant case, the

circular was not made operative retrospectively and as such the refusal to pay the enhanced amount to the petitioners cannot be said to be an erroneous or arbitrary decision. The petitioners also allege that the circular should have been made applicable retrospectively. The circular is a product of a policy decision and the interference from the side of the Court in exercise of writ jurisdiction is also very limited. The Court cannot supplement its views as the matters relating to policy decision are left to the executive under the Indian federal structure. There is also no point in sending the subsequent representations made by the petitioners for reconsideration as the result will be the same unless there is any change in policy decision. Moreover, the practice of making repeated representations and filing consecutive writ petitions till a favourable order to the liking of the representee or the writ petitioner is obtained has been deprecated by the Hon'ble Supreme Court as held in 2006 (3) SCC674 (A.P.S.R.T.C. -Vs.- G. Srinivas Reddy & Ors.) and 2013 (16) SCC 147 (Union of India -Vs.- Ashok Kumar Aggarwal) followed in 2022 SCC Online SC 669 (State of Bihar -Vs.- Rajmati Devi & Anr.).

In the aforesaid facts and circumstances, the writ petition is unmeritorious and is dismissed, however, without any order as to costs.

(Arindam Mukherjee, J.)